SOME

CONSIDERATIONS

Offered to publique 6.

VIEW,

IN

Behalf of the many thousand Persons interessed in publique

SALES:

Wherein is shortly stated

1. *The Original of publique Debts satisfied upon those Sales.*
2. *The Consideration of the Sales themselves and their Authorities.*
3. *The Consonancy of their confirmation to presidents of Law and the practises of former times.*
4. *The weight of the Concernees.*

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Of the original Debts.

THe Purchaſers do univerſally challenge an equity to their eſtates from both Houſes, the Lords and Commons of the late Parliament, for that all the Original Debts, whether for money lent, or Arrears of pay to the ſouldiery whereupon any publick ſales have been made, were contracted by the Lords and Commons before 1648.

Theſe Houſes beſides the Ordinary credit of Parliaments, having had further reputation, by a ſpeciall Act, that they ſhould not be diſſolved without their own conſent; had alſo by the ſame Act a foundation of credit laid for the contracting of publick Debts, for the preamble of this Act declares as matter of inducement to the Act, the neceſſity of raiſing great ſums for the relief of the Kings Army in the North, and preventing of the eminent danger which the kingdom was then in, which could not be ſo timely effected as was requiſite without credit, which credit could not be obtained, until ſuch difficulties were removed, as were occaſioned by fears that the Parliament might be diſſolved before Juſtice ſhould be executed upon delinquents, grievances redreſſed, firm peace ſetled between the two Nations, and ſufficient proviſion made for repayment of monies ſo to be raiſed.

The monyes raiſed for ſupply of that Army, were part of theſe by which theſe purchaſes are made, the other Debts and Arrears were contracted upon Ordinances of the ſame Lords and Commons, and their Declarations of the neceſſityes thereof for their own defence, the ſervice of the King and Parliament and the proſecution of the ends of that Act by which the late King had conſented to their continuance, ſo the Debts ſeem to have a natural equity of ſatisfaction by that Act. And the Lords and Commons had by ſeveral Ordi, nances, charged, the arrears of the Army and other debts to be

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be paid out of the receipts of *Goldſmiths-Hall Haberdaſhers-Hall*, and the Exciſe in courſe, from which ſecuritys theſe debts and arrears were afterward transferred to be ſatisfied by ſales without the prayer or ſeeking of thoſe to whom they were owing.

Of Sales and their Authorities.

The Lords and Commons ſeiſed and took the profits of all the lands that have been ſold (except in private caſes) when they had ſome while taken the profits, and found the Debts thus contracted to increaſe upon them, and that they could not otherwiſe provide ſatisfaction then by ſale, they reſolved to ſell; part of the ſatisfaction was made by purchaſes upon Ordinances of the ſame Lords & Commons, and the reſt under ſuch Commons as for the time exerciſed the Government, and under whom the publick affairs, and common Juſtice of the nation were adminiſtred' Theſe among other Acts of Juſtice expoſed lands to ſale for the ſatisfaction of Debts and Arrears.

Herein they were but as inſtruments or Conduits of that right which the Purchaſers had to a ſatisfaction of ſuch debts as were contracted by others, and without ſuch ſale would have been ſtill owing. So that admitting their aſſumption of the Government were unwarrantable, yet being in the poſſeſſion and exerciſe thereof, ſuch Acts of theirs as tend to publick juſtice, the payment of debts, and ſales upon valuable conſideration, have a foundation in juſtice not to be overthrown, promiſcuouſly with other things for defect in the ſupreme power.

Some of the purchaſers were conſtrained to make up a moity of the conſideration money, by payments *de novo*, a great hardſhip to ſuch as having been divers years out of their money and reduced to poverty, were neceſſitated to borrow and pay more before they could have any thing for what they were out: wherefore being in upon valuable conſideration, under ſuch as had the reputation of Authority, an

acknowledgement by the Embaſſies and Treaties of forraign Princes, a ſubmiſſion and obedience of all parties in the Nation to them, their impoſitions, and Courts from whom onely at that time the people could ſeek for ſuch or any other Juſtice, and the e being no other way by which the publique debts could be ſatisfied, it ſeems there is no leſs reaſon for making good publique ſales then of the other parts of commutative and diſtributive juſtice under the ſame power.

Of the Conſonancy of a confirmation to the rules of law and Practiſe of former times.

1. The Common law warrants all ſales made by command of law, and doth not reverſe ſuch ſales though the judgement upon which they depend be reverſed; for if a Sheriff upon a Writ of Execution ſell a Leaſe or if lands be recovered, in value upon a Voucher, and afterwards the Judgement or recovery in value be reverſed or diſaffirmed the Execution ſhall not be avoided, but all ſales made the while are good;

2. Where men have been reſtored by Parliament to blood and lands, for want of trial by their Peers, or for a Judgment of Treaſon, which the next Parliament hath declared to be no Treaſon, or for doing things which a Parliament afterwards declared they were forced to do, or for that their accuſations were falſe, or becauſe the Act of Attainder was void *ab initio*, yet becauſe ſuch caſes have had the colour of Judgements the countenance of Acts of Parliament, the Reſtitutions have been as appears by many Records with ſavings for Gifts, Grants, Sales, the laſt will of a King, &c.

3. And where there hath been the greater indulgence, it hath been with ſavings of the Kings Warranties and the Patentees aid prayer of the King which is inſtead of a Voucher by which the King ſhould recompence the Patentees with other lands to the value of thoſe ſo extraordinarily reſtored.

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4. In caſes of reſumption of lands united and made inſeparable to the Dutchy of *Cornwall* but aliened, of lands of the houſe of *Lancaſter* enacted to be forfeit in Parliament of the houſe of *York*, & ſold, of lands reſumed from ſuperſtitious uſes, reſtored to ſuch uſes, and reſumed again by Act of Parliament, the reſumptions and reſtitutions have been with ſaving of leaſes and grants by exchange, or for valuable conſideration.

Of the Practiſe of later times.

Though there have been divers revolutions in the government, none of them hitherto have offered the leaſt violence to publique ſales.

1. The Parlimentary Aſſembly in 1656 choſen by the people, did not avoid all the Acts and Ordinances, made by the little Convention and Protector (not ſo choſen) while they pretended to the Legiſlative power, but eſtabliſhing ſome, continuing others for a time, made null the reſt, not *ab initio* but from ſuch a day, and with expreſs proviſion that all Acts done thereupon before that time ſhould be good and effectual, and that all perſons at that time enjoying any lawfull advantage by any Act done thereupon ſhould be ſecured as if they had continued laws.

2. The Commons who were interrupted in 1653, and reſtored in 1659 ſate near ſix moneths, without impeaching ſuch Acts as were made in the intervall; at laſt foreſeeing they ſhould be interrupted a ſecond time (to prevent raiſing of money as the title imports) they declare againſt ſuch Acts, but how? not that they were nullities, but that from ſuch a day they ſhould be of no force, which did not at all weaken, any thing done upon ſuch Acts, before that time, beſides, which is moſt to the preſent purpoſe, it hath a ſpecial proviſo for purchaſers.

3. The ſecluded Members after their return ſeem to have affirmed the ſales made during their ſecluſion, by admitting the

the Acts for ſale to be good and this they did by allowing many other Acts made when theſe were, they affirmed the con inuance of the Parliament till the 16th *March* 1659, they ſtiled their reſults Acts, they awarded Writs in Engliſh and the ſtile of Keepers, things introduced during their excluſion they made repeal of ſome Acts, as concerning Sir *George Booth*, &c. and prolonged others, as for *Cuſtoms Exciſe*, &c. which repealing and prolonging do import that they were inforce before, and if ſome were in force, all were inforce, and ſo the Acts for ſales.

4. His Majeſty and the Houſe of Commons have ſhewed a tenderneſs herein, as by his Majeſties Declaration and the Commons Declaration of the 8th. of *May* which declares among others, *An Act touching the confirmation of grants and ſa'es* to be under conſideration: They have alſo admitted the conſideration of the purchaſers, *viz.* the publique faith to be good by a paiment of that kind to Major General *Maſſy* if the debt, the conſideration be good in the jndgement of this Houſe, the purchaſes have foundations.

Of the weight of concernees.

That the weight of Purchaſers may be the better known it were fit to conſider ſeverally the firſt purchaſers, other under purchaſers and claimants under them, heirs apparant, expectants of the eſtate, their kindred and relations.

1. The Purchaſers are known many of them not to have bought barely for the ſake of a purchaſe, but with deſign of ſome ſpecial diſpoſal of their perſons, removing themſelves and families from other places and imployments to which they cannot return, but with unſpeakable loſs. Where others have bought for the ſake of a revenue, it will be found that many of them have diſpoſed their other eſtates in advancement of their children and now relie upon the new for ſubſiſtance, many of them bought reverſions that have not yeelded them any thing more then an old rent of about

a twentieth part, the other nineteen parts not yeelding a peny. In other caſes the new eſtates being incorporate with the old, and by Wills and ſettlements put into the walls and foundations of families, the pulling down of ſuch corners and principals will ſpoil the building. Who ſhall make a new Will for a dead father, or how ſhall a mother in law, or an heir, or a Guardian and other children be brought to a new diviſion of ſuch other eſtate as being claimed by one ſingly will by the rules of law debar all the reſt of any thing.

2. The underpurchaſers are known generally to have paid near as much as the like eſtates are worth apon the beſt titles. Some becauſe they were immediate tenants, others becauſe the land lay mixt with their own, but moſt from the reputation theſe titles had gotten in common opinion by ſucceſſion of ſo many years, and the ingagement of men of all parties, many of them bought very lately, & have received little or nothing, others paid double the firſt purchaſe for improvements and caſual advantages fallen to the firſt buyers by the deaths of Tenants for lives.

3. Derivative claimers under theſe are multitudes of women entitled to dowers and joyntures, others claiming in recompenſe of other eſtates by partitions, exchanges and ſettlements in marriage, ſome as Truſtees, & Executors for Orphans and Charitable uſes, others for ſecurity of debts by Martgages, Statutes, Judgements and Recognizances, ſome again who relied upon the bonds and credit of their debtors eſteemed owners of ſuch lands, but being deprived thereof are disabled to pay their debts; to all theſe may be added tenants who in cities and good towns have paid great fines altered their old and built new houſes of which there are whole ſtreets about *London*; other tenants in the Countrey have laid out of all they are worth in building incloſures and other improvements. There are manors that have many Copy-holders for life who have bought in their own lives and entitled their wives to the cuſtomary eſtate, many both

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Copy-holders and others have surrendred their old estates, for life or years to take new or to entitle their sons, all which estates will be avoidable if the sales be avoided and an inlet made to most vexatious suits, upon warranties, Covenants of assurance and other colours both in Law and equity to the ruine of all these families and the bringing in of endless confusion.

4. If with the Proverb, Land never wants an heir, there are none of these but have relations who look for something either of benefit or countenance; the present possessor cannot be thrown out but another will think himself prevented of a reasonable expectation (or though a man be no purchaser himself, yet if he be heir apparent or near to one, if his brother be a purchaser or his mother, sister or near kindred have a livelyhood portion or Joynture in such estates, nature will make him and unthought of friends sensible of the loss poverty and reproach they suffer.

All these considered let it not be strange if when all interested persons when expectants, when kinded, when friends, when such as depend on those shall complain indeed, they raise a louder cry then such as will not consider it are aware of, with the greatness of their cry if it prevail not, it may be considered that an age will not remove the Repetition and Ecchoes of such cries, for these are not personal claims such as men have to preferments in Courts, Churches and Colleges which are barely personal; when such are taken away, and the first man dead, there is no son nor Cozen and heir to challenge an inheritance, none to say this is mine and you wrong me to withhold it wherefore it seems to be more troublesome in practise to take these lands from the purchasers then it was to pull down Abbeys and take away their lands, for there as soon as the Monks were dead, there was an end of their pretences but here when a purchaser dies his claim has a resurrection in his heir; for right will not die nor the opinion of right.

FINIS.